

MICHIGAN DEPARTMENT OF CIVIL SERVICE

**DRAFT REGULATION – Rev A**

<b>Appointing Authority Letter Reference:</b>	<b>Effective Date:</b>	<b>Index Reference:</b>	<b>Regulation Number:</b>
CS-xxDRAFT	March 18, 2001	Grievances and Appeals	<b>8.06</b>
<b>Issuing Bureau:</b>	Rule Reference:		<b>Replaces:</b>
Executive	<b>Chapter 8:</b> Grievances, Grievance Appeals, and Technical Complaints		New
<b>Subject:</b>			
<b>COMPUTING TIME AND FILING DOCUMENTS</b>			

INDEX

1.	<b><u>PURPOSE</u></b> .....	1
2.	<b><u>DEFINITIONS</u></b> .....	2
3.	<b><u>APPLICATION OF REGULATION</u></b> .....	3
4.	<b><u>COMPUTING TIME PERIODS</u></b> .....	3
	A. Application.....	3
	B. Counting Time.....	3
	C. Extension of Period.....	6
	D. Effect of Time Limits .....	6
5.	<b><u>DELIVERY AND RECEIPT OF DOCUMENTS</u></b> .....	7
	A. Documents Received by Civil Service.....	7
	B. Documents Sent by Civil Service .....	8

1 **1. PURPOSE**

2 This regulation provides uniform standards and requirements for (1) computing  
3 periods of time and (2) filing documents in departmental grievance proceedings and  
4 civil service proceedings.

## 2. DEFINITIONS

A. **Definitions.** The following definitions are used in this regulation:

- (1) ***Civil service proceeding*** means any administrative, technical, or quasi-judicial proceeding conducted by the Department of Civil Service, the State Personnel Director, the Employment Relations Board, or the Civil Service Commission. *Civil service proceeding* does not include the steps of the grievance process conducted at the agency and departmental level leading to a final grievance decision of the appointing authority.
- (2) ***Day*** means a calendar day, including a Saturday, a Sunday, and a state holiday.
- (3) ***Document*** means any paper required to be filed, mailed, or received in any civil service proceeding. *Document* includes, but is not limited to, a grievance appeal, technical complaint, claim of appeal, application for leave to appeal, motion, brief, decision, order, or recommendation.
- (4) ***Good cause*** means an acceptable excuse for failing to file or take other required action timely. *Good cause* does not include a person's own carelessness, negligence, or inattention to the filing or other requirements.
- (5) ***Departmental grievance proceeding*** means the steps of the civil service grievance process authorized by civil service Regulation 8.01 [Grievance and Grievance Appeal Procedures] conducted at the agency or departmental level leading to a final grievance decision of the appointing authority.
- (6) ***Mailed*** means deposited in a United States Postal Service mail receptacle properly addressed, containing the document to be mailed, and with first-class postage fully prepaid on the envelope.
- (7) ***Postmark*** means a date stamp placed on a mailed envelope or a receipt issued by the United States Postal Service indicating the date the envelope was mailed or received by the United States Postal Service for mailing. A postmark does not include a date stamp placed by the sender, such as a postage meter stamp.
- (8) ***Special extenuating circumstances*** means a compelling excuse for the failure to file a matter timely that arises out of one of the following:

- (a) An intentionally or fraudulently misleading action by an appointing authority or party that prevented the filing.
- (b) Serious physical or mental incapacity of the person that prevented the filing.
- (c) Extraordinary unforeseen circumstances that were outside the control of the person that prevented the filing.
- (9) **Workday** means a day, Monday through Friday, on which the state executive offices are open for business. *Workday* does not include a Saturday, Sunday, or state holiday.

### 3. APPLICATION OF REGULATION

This regulation applies to all civil service proceedings, including, but not limited to, grievances, grievance appeals, technical complaints, and proceedings before the Employment Relations Board and Civil Service Commission.

### 4. COMPUTING TIME PERIODS

#### A. Application

Unless a rule or another regulation specifically provides for a different method, all time periods required by a rule or regulation for a civil service proceeding or a departmental grievance proceeding are measured in days, weeks, months, or years, as provided in this regulation.

#### B. Counting Time

- (1) **Counting time in days.** The first day of a period measured in **days** is the day after the occurrence that starts the period running. The last day of the period is included.

►► Example of counting in **days**:

“A grievance appeal must be filed within 14 calendar days after the final grievance decision is issued.”

If the final grievance decision being appealed is issued on Wednesday, September 13, the 14-day appeal period begins on the next day, Thursday, September 14. The grievance appeal must be filed in the Department of Civil Service no later than Wednesday, September 27. The calendar below highlights the 14 calendar days as they are counted:

### September

Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13/Decision Issued Today	14	15	16
17	18	19	20	21	22	23
24	25	26	27/ Appeal Due Today	28	29	30

(2) **Counting time in weeks.** The first day of a period measured in **weeks** is the day of the occurrence that starts the period running. A period measured in **weeks** ends on the same day of the week as the occurrence that begins the running of the period.

►► Example of counting in **weeks**:

“An appeal must be filed within 3 weeks after the final decision is issued.”

If the final decision being appealed is issued on Tuesday, October 5, the appeal must be received by the Department of Civil Service no later than Tuesday, October 26. The calendar below highlights the 3 weeks as they are counted:

1

### October

Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	2
3	4	5/Decision Issued Today	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26/Appeal Due Today	27	28	29	30
31						

2

3

4

5

6

7

8

9

10

11

- (3) **Counting *months* or *years*.** The first day of a period measured in ***months*** or ***years*** is the day of the occurrence that starts the period running. A period measured in ***months*** or ***years*** ends on the same day of the month as the occurrence that begins the running of the period. If what would otherwise be the final month does not include that day, the last day of the period is the last day of that month.

►► Example of counting in ***months***:

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

“An unfair labor practice (ULP) charge must be filed within 6 months after the date the unfair labor practice occurred.”

Example 1: If the ULP occurred on Thursday, May 17, 2001, the ULP Charge must be filed on or before Monday, December 17, 2001.

Example 2: If the ULP occurred on Thursday, August 30, 2000, the ULP charge must be filed on or before Wednesday, February 28, 2001. [February 2001 has no 29<sup>th</sup> or 30<sup>th</sup>. Therefore, the last day of February, the 28<sup>th</sup>, is the last day of the period.]

- (4) **Effect of Saturday, Sunday, and state holidays.** The occurrence of a Saturday, Sunday, or state holiday during the period does **not** lengthen the period unless the last day of the period falls on a Saturday, Sunday, or

state holiday. If the last day of the period falls on a Saturday, Sunday, or state holiday, the period runs until the next workday.

►► Example:

“A grievance appeal must be filed within 14 calendar days after the final grievance decision is issued.”

If the final grievance decision is issued on Friday, December 18, the grievance appeal must be received by the Department of Civil Service no later than Monday, January 4. The 14-day period is **not** extended by the state holidays on December 24, 25, and 31. However, since the last day of period would fall on the January 1<sup>st</sup> holiday, the period is extended to the next workday, which is Monday, January 4.

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
Dec 6	Dec 7	Dec 8	Dec 9	Dec 10	Dec 11	Dec 12
Dec 13	Dec 14	Dec 15	Dec 16	Dec 17	<b>Dec 18/ Decision mailed Today</b>	Dec 19
Dec 20	Dec 21	Dec 22	Dec 23	Dec 24 Holiday	Dec 25 Holiday	Dec 26
Dec 27	Dec 28	Dec 29	Dec 30	Dec 31 Holiday	Jan 1 Holiday	Jan 2
Jan 3	<b>Jan 4/ Appeal Due Today</b>	Jan 5	Jan 6	Jan 7	Jan 8	Jan 9

### C. Extension of Period

Unless parties are permitted to stipulate to an extension of time, a deadline in a rule or regulation for filing a document with the Department of Civil Service, the State Personnel Director, the Employment Relations Board, or the Civil Service Commission cannot be extended without the prior consent of the Department, Director, Board, Commission, or authorized civil service officer, as appropriate.

### D. Effect of Time Limits

- (1) **Late filing; requirements.** A document that is filed late in a civil service proceeding will not be accepted unless it is accompanied by a written

1 explanation of the reasons for the late filing that establishes either good  
2 cause or special extenuating circumstances. If the late filing is not  
3 accompanied by a written explanation or if the explanation fails to  
4 establish required good cause or special extenuating circumstances, the  
5 filing is dismissed as untimely.

6  
7 **(2) Good cause.** A filing that is filed up to 28 calendar days late cannot be  
8 accepted unless the filing party establishes good cause for the late filing  
9 that was not due to the filing party's own negligence.

10  
11 **(3) Special extenuating circumstances.** A filing that is filed more than 28  
12 calendar day but less than 1 year late cannot be accepted unless the filing  
13 party establishes special extenuating circumstances for the late filing.

14  
15 **(4) Maximum Limit.** A filing that is 1 year or more late cannot be accepted.

## 16 5. DELIVERY AND RECEIPT OF DOCUMENTS

### 17 A. Documents Received by Civil Service

18 **(1) Date Received.** When a period ends or begins on the date a document is  
19 received in a civil service office, the document is deemed to have been  
20 received on the ***earliest*** of the following:

21  
22 **(a)** On the date the document is received in the civil service office during  
23 a time the office is open to the public.

24  
25 **(b)** On the date the document is received in the civil service office by  
26 facsimile or e-mail, subject to required follow-up as provided in  
27 subsection 5.1(b).

28  
29 **(2) Facsimile or E-mail Follow-up.** If a person is required to file an original  
30 document or multiple copies of a document with a civil service office,  
31 delivery by facsimile or e-mail does not satisfy such requirements. In such  
32 case, an initial timely filing by facsimile or e-mail is deemed timely only if  
33 the person delivers the original or multiple copies to the civil service office  
34 within 7 calendar days after the date of the initial filing by facsimile or  
35 e-mail. If the original documents or multiple copies are not received within  
36 7 calendar days, the initial facsimile or e-mail filing is deemed untimely.

37

1       **(3) Use of US Postal Service or Commercial Overnight Carrier.**

2  
3       **(a)** A party filing a document must ensure that the document is received  
4       timely in the proper civil service office. If a party chooses to have the  
5       United State Postal Service (USPS) or a commercial overnight  
6       courier deliver a document to civil service, it must be sent sufficiently  
7       in advance so that the document is received in the civil service office  
8       before the expiration of the relevant period.

9  
10       **(b)** The failure of the USPS or a commercial overnight carrier to deliver a  
11       document is not good cause to excuse a late filing unless the filing  
12       party has a receipt that is postmarked by the USPS or dated by a  
13       commercial overnight carrier showing that the document was mailed  
14       or sent sufficiently in advance of the expiration of the period to be  
15       received in the civil service office before the expiration of the period.

16  
17       **B. Documents Sent by Civil Service**

18       When a period begins on the date a document is issued by a civil service office,  
19       the period begins on the ***earliest*** of the following:

- 20  
21       **(1)** The date the document is mailed by civil service to the last known address  
22       provided by the recipient.  
23  
24       **(2)** The date the document is delivered to a responsible person in the office of  
25       the recipient at a time the office is open.  
26  
27       **(3)** If the document is delivered by facsimile, the date the document is sent to  
28       the facsimile number provided by the recipient and receipt is confirmed.  
29  
30       **(4)** If the document is delivered by e-mail, the date the document is sent to  
31       the e-mail address provided by the recipient.  
32  
33       **(e)** The date the recipient actually receives the document.